

CREDIT COUNSELING

11 U.S.C. §§ 109, 521

- **New Filing Requirement:**
 - An individual may not be a debtor unless they receive **Consumer Credit Counseling** within 180 days before filing from an approved credit counseling service (this applies in all chapters – 7, 11, 12, 13). If filing jointly, both debtors must satisfy this requirement.
 - These courses are offered by non-profit agencies that are approved by the UST. A list of approved agencies will be posted at each court's individual website. **(See RI List included in your materials and on court's website).**

2 Possible **Exceptions** to Credit Counseling Requirement

- When the UST declares **suitable services are not available** in a district, or
- When a debtor requests a waiver due to **exceptional circumstances**. The only specific circumstances allowed are the **incapacity or disability of the debtor, or if the debtor is on active military duty in a combat zone.**

Deferral of Credit Counseling

- A debtor may file a **Certificate of Exigent Circumstances** stating that he or she attempted, but was unable to obtain credit counseling within five days from making the request. **A 30 day extension of time may be given to allow the debtor additional time to comply.** Thereafter, the court can grant, for cause, an additional 15 day extension of time.

New and Amended **Official Forms** to Implement Requirement

- The UST Program is developing a **form certificate** for credit counseling agencies to issue debtors, which will then be filed with the court. This certificate should be filed by the debtor with the other official forms and schedules at case filing.
- In addition to the certificate, there is a **checkbox on the Voluntary Petition Form 1, Page 2**, where the debtor indicates if they have received the required credit counseling or if they are seeking a waiver of the requirement.

2 Types of “Waiver” Situations under §109(h)(3) and (4)

- If the waiver request is based on **exigent circumstances** pursuant to subsection (h)(3), such as **inability to obtain the counseling within 5 days of making the request**, it is **really an extension of time** request as opposed to a complete waiver of the credit counseling requirement.
- If the waiver is based on an **exemption** pursuant to subsection (h)(4) of §109, it is a **true waiver request based on incapacity, disability or active military duty in a military combat zone.**

Debtor Chooses **Waiver Box** on Petition Form 1

- If the debtor selects the 2nd box, they should also **file either** a **Motion for Exemption from Credit Counseling** or a **Certificate of Exigent Circumstances**.
- If they do not file either of these documents with the petition, **the 2 Business Day Missing Documents Notice** will issue identifying this deficiency.

New Electronic Filing Events to Implement Credit Counseling Requirement

- **Certificate of Credit Counseling** (to be used ONLY when this document is filed AFTER case is already opened). Otherwise certificate can be attached to other documents within Case Opening event.
- **Motion for Exemption from Credit Counseling**
- **Certificate of Exigent Circumstances**
- **Debt Repayment Plan**